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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	78736536
Applicant	Morris Sendor
Applied for Mark	WHERE TO DINE
Correspondence Address	Panagiota Betty Tufariello Intellectulaw The Law Offices of P.B. T, 25 Little Harbor Rd. MOUNT SINAI, NY 11766 UNITED STATES
Submission	Letter of Objection
Attachments	Microsoft Word - TTAB Letter of Protest of Appeal-78736536.pdf ( 2 pages ) (86858 bytes )
Filer's Name	Susan Daly Stearns
Filer's e-mail	info@stearnstmlaw.com
Signature	/Susan Daly Stearns/
Date	10/10/2009

October 10, 2009

United States Patent and Trademark Office  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

Re: WHERE TO DINE (Ser. No. 78736536)  
Appeal No. 78736536 (filed 10/27/2008)

Dear Sir/Madam:

Please accept this letter as an *ex parte* **objection** to the continued granting of extensions to file the Appeal brief in the above referenced appeal.

Applicant on October 27, 2008 filed a Notice of Appeal in connection with Application Serial No. 78736536. The Appeal brief was originally due on or before December 26, 2008, (“Original Appeal Due Date”) Since the Original Appeal Due Date, Applicant has filed five requests to extend the date to file the Appeal brief, with the current due date of October 22, 2009. In each of Applicant’s request, it is stated that the reason for the extension request is “Applicant’s attorney intends to contact the Examiner to amend the identification of goods in connection with the mark referenced herein above.” Applicant’s attorney further states that if the Examiner agrees to reconsider the amendment, the appeal shall be moot.

This is improper practice by the Applicant’s attorney for the following reasons:

1. If Applicant wanted reconsideration, a Request for Reconsideration should’ve been filed within six months of the issuance of the Final Office action and no Request for Reconsideration was filed.
2. Further, if the Applicant’s attorney truly intended to contact the Examining Attorney she has had more than a reasonable amount of time to contact the Examining Attorney requesting her reconsideration, as the Original Appeal Due Date was almost ten months ago.
3. The ground for final refusal was Applicant’s unacceptable specimen, there is no indication that the description of goods was at issue nor an amendment to the description would cure the application deficiency, and therefore it appears that these requests have not been made in good faith, but simply gain an unreasonable and unwarranted extension of time for the Applicant to correct its application deficiencies.

The TTAB should only grant an extension of time for filing the appeal brief upon a showing of “good cause.” See TBMP §1203.12(d). Although Applicant’s first request may have complied with the “good cause” requirement; after submitting five identical requests stating the exact same reason with no further showing why the continued extension is required or warranted, does not appear to be a good faith request, nor an adequate showing of “good cause” why the extension should be granted.



General Intellectual  
Property Counseling.



Trademark Prosecution  
and Maintenance.



Trademark Enforcement.



General Copyright  
Advice and Registration.



Domain Name (URL)  
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and Dispute Resolution.

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This letter is a request that the TTAB deny any further requests by Applicant to extend the time to file its Appeal brief and address the issues raised in the final refusal. By granting the Applicant further extensions of time to file the Appeal brief will provide the Applicant with an unfair and unwarranted extension of time to prepare and file its brief, resulting in what appears to be a manipulation of the application review process by seeking additional time to cure the application deficiencies through an abuse of the appeal process.

Very truly yours,

A handwritten signature in blue ink that reads "Susan Daly Stearns". The signature is written in a cursive, flowing style.

Susan Daly Stearns